

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/2023**

**Re: Property at 56 Newpark Road, Stirling, FK7 0QF (“the Property”)**

**Parties:**

**Mrs Therese Cruickshank, 8 Westlands Court, Bridge Road, East Molesey, Surrey, FT8 9HQ (“the Applicant”)**

**Mrs Julie McDonald, 56 Newpark Road, Stirling, FK7 0QF (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.**

**Background**

1. By application dated 12 June 2019 the Applicant’s representatives Cross Developments Limited, applied to the Tribunal for an order for the eviction of the Respondent from the property. The Applicant’s representative submitted a copy of the Private Residential Tenancy Agreement, Arrears Letters, Notice to Leave and a rent statement in support of the application. The Applicant’s representative subsequently submitted a Section 11 Notice to the Tribunal.
2. By Notice of Acceptance dated 20 September 2019 a legal member with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was given to the Applicant’s representative by recorded delivery post and to the Respondent by Sheriff Officers.

4. The Respondent submitted written representations by email on 23 October 2019.

### **The Case Management Discussion**

5. A Case Management Discussion was Held at STEP Stirling, Stirling Enterprise Park, Stirling on 7 November 2019. The Applicant did not attend but was represented by Mrs Carol Barrett of Cross Enterprises Limited. The Respondent appeared personally.
6. The Respondent had queried in her written representations why she was the sole Respondent as her partner Stuart Morrison had also been a joint tenant. It was however agreed by the Respondent that she had entered into a Private Residential Tenancy Agreement dated 20 March 2019 that superseded the previous joint tenancy and that therefore she was correctly identified as the sole Respondent.
7. The Tribunal queried with Mrs Barrett whether the copy of the Notice to Leave submitted with the application was the same as that sent to the Respondent. Mrs Barrett provided the Tribunal with her file copy which was identical to that submitted to the Tribunal. The Respondent confirmed that it was the same as she had received. The Tribunal noted that part 2 of the Notice to Leave was missing. This was the part that identified the grounds on which eviction was being sought. Mrs Barrett accepted that this was the case. The Respondent said that the Notice to Leave she had received made no sense as it did not say why she was being evicted.
8. Mrs Barrett accepted that the Notice to Leave was incomplete and was therefore invalid. She accepted that the application could not proceed further and that it was her intention to start again and serve a fresh Notice to Leave on the Respondent and then make a further application to the Tribunal in due course.

### **Findings in Fact**

9. The parties entered into a Private Residential Tenancy Agreement dated 20 March 2019.
10. The Applicant's representative purported to serve a Notice to Leave on the Respondent by Recorded Delivery post on 30 April 2019.
11. The Notice to Leave was invalid as Part 2 of the document was missing.

### **Reasons for Decision**

12. Section 52 (2) of the Private Housing (Tenancies)(Scotland) Act 2016 provides that a Tribunal is not to entertain an application for an order for eviction if it is made in breach of subsection (3). Subsection(3) states that an

application must be accompanied by a copy of a Notice to Leave which has been given to the tenant. It follows that the Notice to Leave must be in the correct form and complete. Section 62(1)(c) requires the Notice to state the eviction ground or grounds on which the landlord proposes to seek an order for eviction. The notice to Leave given to the Respondent did not satisfy the terms of Section 62 (1)(c) and therefore the Notice was invalid.

13. As the Notice to Leave was invalid the application could not proceed and fell to be dismissed.

### **Decision**

14. The application is dismissed.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Graham Harding

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**Legal Member/Chair**

7 November 2019  
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**Date**